



Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

Mary Elizabeth Heffernan
Secretary

The Commonwealth of Massachusetts

Department of Public Safety

Architectural Access Board
One Ashburton Place, Room 1310
Boston, Massachusetts 02108-1618
Phone 617-727-0660 / 1-800-828-7222
TTY 617-727-0019
Fax 617-727-0665

Thomas G. Gatzunis, P.E.
Commissioner

Thomas P. Hopkins
Director

www.mass.gov/dps

Board Meeting – April 23, 2012

21st Floor – Conference Room 1

Present Board Members:

- Diane McLeod, Acting Chair (DM)
- Andrew Bedar, Member (AB)
- Gerald LeBlanc, Member (GL)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- Myra Berloff, Massachusetts Office on Disability Designee (MB)

and

- Thomas Hopkins, Executive Director (TH)
- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

Members Not Present:

- Walter White, Executive Office of Public Safety Designee (WW)
- Carol Steinberg, Member (CS)
- Mark Trivett, Member (MT)
- Donald Lang, Chair (DL)

1) **Incoming:** Francis Wyman House, 56 Francis Wyman Rd., Burlington (V12-083)

TH - EXHIBIT – variance application
- renovation of existing building, multiple request

MB - hearing

GL - second – carries

2) Incoming: Garden Cinemas, 361 Main St., Greenfield (V12-089)

- TH - EXHIBIT – variance application
- large request, will require a 2 hour hearing
 - need to meet with architect to prep for the presentation before the Board

GL - hearing and have the architect meet with TH prior to the hearing

MB - second - carries

3) Incoming: C Wonder Store, 35 Main St., Nantucket (V12-095)

- TH - EXHIBIT – variance application
- proposes to open the second floor and a portion of the first floor for public use
 - 2/3 of use on the 2nd floor, 1/3 use on the first floor
 - seeking no vertical access
 - space was never given legal occupancy of open to the public
 - \$150-200,000 for elevator, other costs for access also outline
 - store will only be open Memorial Day weekend to end of October
 - projected earnings of \$1million
 - Disability Commission is opposed

MB - deny

GL - second – carries

*** Donald Lang, Chair (DL) – Now Present ***

4) Discussion: The Armory, 191 Highland Ave., Somerville (V09-197 and C10-059)

- TH - timeline of the events of the case and the request from the Petitioners to abate the fines that have accrued
- work is completed, submit photos from April 2, 2012 Site Visit by the Board Staff

MB - Complainant cannot negotiate the end results of the complaint resolution, the matter has to be dealt with by the Board

- original testimony of the Petitioners stated that the slope was 9.8%, when the Complainant reported and the Board Staff verified that the slope was in fact 12.8-13.3%;

- multiple extensions were given to allow the Petitioners to complete the work within an allotted timeframe, but the work was not done in a timely fashion

DL - if we could, but we can't, would divide the fines into 3 parts, giving a third to the architect, a third to the City of Somerville, and a third to the owner

- need to focus on the jurisdiction of the Board

DM - they were not in any type of hurry to get the work done

TH - the architect could not produce anything from the City that said that they would not help with raising the sidewalk, thus the fines were levied and the work was completed soon thereafter

DL - were the owners of the building not acting in good faith with the Board?

TH - didn't get that sense from the owners, primarily dealt with the architect
- clear that the application noted that the slope was 9.8% when in fact it was as high as 13.3%
- the Complainant reported on violations at 18 areas that were not even on the radar of anyone involved with the project
- the owner stated that they had 3 different architects and 5 different contractors
- the Complainants actions of filing the complaint resulted in substantial access improvements for persons with disabilities

DM - the Board normally reduces the fine to 5%, which is \$3,775.00

DL - which would reflect a 95% abatement

TH - would that be something that they would be allowed to pay over time, based on the loss statement submitted by the owner

DM - as long as strict dates for payment and if not made at that time will revert to full fine amount

TH - owner offered one event at the facility to be held for CAPS
- heard back from Eileen

MB - outside of the purview of the Board, we can't negotiate events
- fines go to the general funds
- would be a great thing to do for the Complainant, but can't be negotiated by the Board
- fines reflect amount of additional work needed by the Board and the ongoing efforts of the Board Staff over the years

DM - collect fines of \$3,775.00, which reflects a 95% abatement; which can be paid in 3 installments, starting October 1, 2012; April 1, 2013; and October 1, 2013 (divide by 3- \$1258.33); if any of those installment dates are missed, it will revert back to the full fine of \$75,500.00, within 30 days.

MB - second

RG - seems more like a slap on the wrist, would like to see more fines; why reduced so much

DM - because would like to be somewhat consistent based on the history of cases

- carries with GL opposed

DL - (TAPE)

MB - (TAPE)

TH - is the Board supportive of DL and I meeting with the Mayor

All - absolutely

5) Incoming: Jackson Homestead, Newton History Museum, 527 Washington St., Newton (V12-087)

TH - EXHIBIT – variance application
- 7 different requests

GL - *hearing*

MB - *second – carries with DL abstaining and DM as Acting Chair*

6) Discussion: Short Time Extension for 53 Complaints in Somerville

TH - were due on 4/15/12 to submit variances and plans for compliance
- received letter from Shapiro requesting extension to submit by 5/4/12

MB - *accept extension to 5/4/12, with the understanding that if not submitted by said date then a fine hearing will be scheduled*

DM - *second - carries*

7) Discussion: Fairway Oaks, LLC, Garden Condos, Westchester Dr., Haverhill (C08-115 and V09-077)

TH - April 5, 2012 sent out letter to the owners, regarding fines \$546,000.00 at a rate of \$1,000.00 for 546 days
- April 9, 2012 letter from owners, received by the Board on April 12, 2012, seeking abatement of fines in full; citing the economy

*** Walter White, Executive Office of Public Safety and Security Designee (WW) – Now Present ***

DM - 5% comes to \$27,300.00

TH - the awnings cost \$18,000.00
- case started 4 years ago
- the Complainants are very pleased with the results of the awnings

DM - *mandated to pay 5% of the total, a 95% abatement, at a total of \$27,300.00; to be paid by July 1, 2012 at the latest;*

RG - *second*

MB - *fear is that they are going to assess the owners the fines*

- *carries*

8) Discussion – Executive Session: Multiple Locations, Sidewalk Width, Cambridge (V12-069)

DM - *going to into Executive Session*

GL - *second - carries*

9) End Executive Session: Motion to End

GL - *end executive Session*

WW - *second - carries*

10) Incoming: Uno's Restaurant, Kenmore Sq., 645 Beacon St., Boston (V12-088)

TH - EXHIBIT – variance application

- renovation of existing space, expanding into hotel conference space for more seating

- seeking relief to 17.5, because the seating area will be down a couple of steps

- the work is already completed

MB - to get into this restaurant, you go into the restaurant via the kitchen route

- two steps become important, if mitigating the two steps makes the entire restaurant accessible

TH - the variance request is for the two steps into the newly acquired room

DM - *deny, not technologically infeasible or excessive cost without benefit*

MB - *second – carries with WW not present*

11) Incoming Discussion: Proposed New 3 Family, 279 West 3rd St., South Boston (V12-063)

TH - previously reviewed on 3/26/12, just a box shown for the location of the lift

- new construction, seeking relief to use a vertical wheelchair lift in new construction

MB - *grant the use of the vertical wheelchair lift on the condition that the lift complies*

DM - *second – carries*

TH - seeking a variance for the parking to only provide 2 parking spaces below the building

MB - if 3 different owners, then an issue with the parking

- building is only 13 feet wide?

DL - the lot is 20 feet wide

- parking spaces are 16 feet

DM - grant, based on technological infeasibility

MB - second - carries

12) Hearing: Curb Cut at Summer Street and Central Street, Somerville (C10-278)

DL - called to order at approximately 11 a.m.

Eileen Feldman, Complainant, Community Access Project (EF)

David Shapiro, City of Somerville Law Dept. (DS)

David Giangrande, PE, Design Consultants Inc., for City of Somerville (DG)

Carlene Campbell-Hegarty, ADA Coordinator for City of Somerville (CCH)

Jillian Foley, City of Somerville Law Department (JF)

Robert King, City of Somerville Engineering Department (RK)

Mark Dempsey, AAB Compliance Officer (MD)

DL - all but JF sworn in

- EXHIBIT 1, AAB1-32

MD - received original complaint on 12/30/10

- first notice was sent out on 1/31/11

- on 5/9/11 received letter from the City confirming the validity of the complaint

- on 12/6/11 received verification and photos of the intersection showing compliance

- on 12/8/11, sent out complaint resolution letter to all

- 1/4/12 received letter from complainant seeking a hearing and objecting to the corrections made to the intersection

EF - path of travel is not perpendicular to the curb and that the curb cut is an apex curb cut

- 2.4% curb cut cross slope and then some areas at 1.9%

- sidewalk panels around the curb cut were also not uniformly compliant

- the curb cut is not mitigated, and does not fulfill the qualifications allowed for the installation of an apex curb cut

- the apex curb cut actually impairs the sightline for pedestrians and vehicles

- no stop line issue, not a large radius intersection, and not an issue of adjacent vaults

- Somerville Home, an assisted living facility is within a block of this cross walk

- perpendicular curb cut at the opposite side of the street

- looks feasible to create perpendicular, and the apex curb cut leads visually impaired people into the intersection

- have observed people not even using the cross walks as the public path of travel, people just follow the direction of the curb cut

TH - the Board had voted that the crosswalks should align with curb cuts, but later reversed the decision

- the use of apex curb cuts was not allowed for a long period of time, but then put back into the code with the understanding that the installation of such curb cuts can only be done when certain criteria are met

MD - on May 9, 2011 the Board received a letter from the City that agreed that the complaint was a valid complaint

DL - the City did the work, and the Board accepted the work that was done

MB - the City acknowledged the slope problems and mitigated the curb cut based on that, but there are clearly path of travel issues

- don't see the factors that allow for the installation of an apex curb cuts

- Board accepted the slope issues, not sure if the use of an apex curb cut was discussed or the skewed intersections

- want to know why the apex was used and what the reasoning was for that installation

- putting in one apex curb cut causes perpendicular issues

RK - took some photos of the intersection, there are 2 apex curb cuts at this intersection and then two perpendicular curb cuts

- NW corner (pg. 2 of pictures) shows the reasoning for the apex curb cut

- apex ramp is in the best possible location

- can't put in an apex curb cut at the other corner because of the existing light, thus the use of perpendicular curb cuts

DL - additional photos, EXHIBIT 2

MB - perpendicular ramp, trying to head to an apex

- is this the big concern?

EW - yes

- could create two ramps

RK - preexisting crosswalk, the city prefers to maintain them

- can relook at crosswalk situations, "picked the best of the non-ideal options"

EF - reciprocal curb cut not available

DG - two curb cuts at the east side, south and north; and two at the west side (apex)

- given the utility poles and the intersection as a whole, the current solution was the best feasible way to bring the intersection into compliance

TH - picture #3, the two corners

- use of the apex curb cuts was because of the existing conditions of the intersection

EF - why not perpendicular curb cuts further back

- DG - had to maintain apex curb, if we installed perpendicular and maintained apex curb cut would be confusing
- installing a curb cut further down the street was not feasible
- DL - Photo 3 locations?
- DG - putting a second curb cut at the opposite side of the existing perpendicular curb cut, would move it further down the street
- WW - is there a technical standard in terms of distance relative to opposite curb cuts, to separate them?
DG - engineering judgment, wing-to-wing standard, need to make sure that a pedestrian is highly visible, anticipate a pedestrian at an intersection not further down the roadway, would prefer to see curb cuts closer to an intersection
- don't allow parking within 20 feet of an intersection
- AB - came up with the best engineering solution for this intersection?
DG - yes
- RG - don't have to maintain apex
- DM - there are situations where large area, but a lot in between, because of existing structures (i.e. light poles, vaults, etc)
- better off saying go up one block further and crosswalks up further to create safer situation; the apex curb cut leads people away from the perpendicular cross walks
- in that instance, eliminate the conflicting crosswalk
- RK - two thoughts, one that this was an existing crosswalk, would have been eliminating one, could have sought a variance
- if someone is on the west side of central street and want to cross summer, pedestrians just cross the street
- DG - Cambridge Health Alliance, Central Street Hospital part of the Health Alliance, the cross walks do get used since they are existing crosswalks
- not an ideal solution, but a reasonable solution
- MB - as the City plans and moves forward, need to be aware of the fact that the Board does have a variance process and that the Board would have liked to have seen the plan prior to the completion of the work
- DL - this is an appeal to the original decision regarding the complaint; the City can either correct or submit a variance if the Board finds that the design does in fact, not comply, or it does meet the best possible conditions of the area

- WW - *Take the matter under advisement based on the lack of another engineer review of this situation, which was based on an engineering judgment*
- GL - *second -*
- KS - *would be a motion to continue then, since decision will not be made today*
- WW - *yes CONTINUE, based on the need for an alternate review of the engineering design of the intersection, can either be submitted by the City, and/or sought by the Board Staff*
- EF - City's May 5th response did not actually mention the apex, which was cited in the first notice and the original complaint
- omitted it, but didn't specifically deny the mitigation of the apex curb cut; original complaint did cite the apex and the skewed curb cuts, but these items were not dealt with in the resolution
- DL - the Board did not see a red flag at the time, and don't want to slow down the resolution project by demanding plans to be accepted by the Board prior to submitted a resolution letter and verification; the complaint should be resolved by the owners of the area as a resolution to a complaint
- DM - need to work with members of the community during a design process
- RK - this will be the process going forward
- MB - EF brings a lot of knowledge to the discussion
- *motion to continue, carries*

*** Carol Steinberg, Member (CS) – Now Present ***

13) Hearing: Outdoor Elevator (Elevator # 281-P-1142), West Columbus Avenue, Springfield (C11-119)

DL - called to order at approximately 1 p.m.

Sheila McElwaine, Complainant (SM)

Mark Dempsey, Compliance Officer for the AAB (MD)

Kathy Sheehan, Asst. City Solicitor for the City of Springfield (KSh)

Phil Dromey, Deputy Director of Planning, City of Springfield (PD)

Tom Moore, Associate Solicitor for City of Springfield (TM)

Roger Hamel, Mechanic for Associated Elevator (RH)

DL - all but KSh and TM sworn in

- EXHIBIT 1, AAB1-72

SM - lack of access to elevator tower, 3 stops, at grade, to bridge level, and to lookout level

TH - case that was before the Board, the complainant in the matter was a Mr. Cook, that cited that the lift was not constantly available

- the complaint was withdrawn on the day of a previously scheduled hearing

- new issue is the fact that the elevator has been decommissioned

- therefore no access

- the Board allowed the elevator to be shut down during the winter months, since the park was shut down at that time

- TM - the City is proposing to upgrade the elevator to make it operational within 60 days
- DL - the elevator will be operational within 60 days?
- TM - that is anticipated, but Hamel is here to explain the procedure to getting the elevator back in service
- CS - need to find in favor of the complainant in this matter, if the City concurs that the elevator was not operational at the time that it was brought to the attention of the Board that the elevator was decommissioned
- TM - at the time of the complaint the elevator was not operational
- CS - *find in favor of the Complainant*
- GL - *Second – carries*
- RH - 30 years in the business, worked for Schindler for 25 years, the remainder of the time been with Associated Elevator
- became familiar with the site in question in May of 2011
- TM - what was done by Associated Elevator in May and June of 2011
- RH - in May 23, 2011 did some work
- not decommissioned just placarded
- MD - AAB11, shows Decommissioned
- RH - the paperwork was mistaken, the decommissioned elevator was for the elevator in the Basketball Hall of Fame, while the elevator in question has only been placarded
- in June of 2011, the door issue was resolved for the elevator, but another problem with the elevator running at high speed
- moved after installed soft-start in May, but door issue was not resolved until June, when another issue was found
- April of 2012 came back out to the site, started the required work to bring the elevator up to running high-speed; still needs some parts to finish the upgrade; should be finishing up the work tomorrow and then will request the State Elevator Inspector test
- TM - hoping that within 60 days from today, hoping to have the State Inspector inspection completed and the elevator in full working order
- also an issue with the drainage at the site that is in the works to be modified to help alleviate any issues with the elevator in question
- water currently collects within the elevator shaft due to these drainage issues
- PD - elevator not designed well, the drainage directs water straight to the elevator; there are open doors at the mechanic doors for the elevator
- using CDBG funds to finance the repairs, additional funding will be needed for the drainage issues
- KSh - one other issue, the elevator is on park land, and the parks are open from dawn to dusk; there is provisions for maintenance of the grounds in the spring; park is not open during the winter months
- City needs to make sure that issue is that the elevator is operational when the park is open
- MD - as far the park being closed overnight and in the winter months, it is understood that the elevator will be operational during times that the park is open

- CS - this is going to be a continued issue because of the water issues
- SM - park was dedicated in 2003 and the elevator has not consistently been working since then
- CS - need to make this maintenance of the elevator not last on the list
- TM - if the Board continues this matter, then can come back to the Board within 60 days to show the elevator is working and the proposed design
- SM - issue with signage and directing people to a railroad crossing that is not signaled and is a safety issue
- PD - this is the main entrance to the park, but it is an issue for the railroad crossing
- TM - signage will be installed this week
- AB - water issues are bad?
- RH - pumped out the pit on Friday, will see what today's storm resulted in
- DL - main entrance is over the train tracks, is this a well used park?
 TM - it is the hopes that the park will be used more frequently
- PD - the tracks in question are mainly used by freight trains, but there is talk of a Springfield to Boston Commuter Rail, but the majority of the freight trains run on the east to west line, not this line
- SM - the rail has been there for 100 years, the park is fairly new
 PD - the park has been there since the 1970's, with the bikeway built up in early 2000.
- KSh - City Parks has tried to work with Amtrak about putting in a crossing
 TM - people are not "invited" onto the railroad tracks to cross; the train company is against the crossing installation
- (TAPE)
- MB - elevator repairs will not be temporary, as noted on AAB11
 TM - yes, that has changed, since just need to determine the repairs required for the drainage issues at the site
- MB - AAB63, elevator closed for the season, June-October
 MD - that is part of the complaint from 2006
- MB - elevator operating hours are dawn to dusk, which changes per season
- PD - will work with Park Department to determine how they adjust the timer on the elevator
- SM - these are old signs, the signs shown later in the packet have been removed
- WW - any financial impediments to getting this work done?
 TM - money is there

WW - *continue the hearing for 60 days, to have the petitioners submit a report within 30 days receipt of the decision of the Board, have plan for drainage and the elevator work done within 60 days receipt of the decision of the Board*

GL - *second – carries*

DL - copy of affidavits as EXHIBIT 2

*** NO MORE DM ***

14) Incoming: Wheelright School Building, 1776 Barre Rd., Hardwick (V12-092)

TH - EXHIBIT – variance application
- variance to 28.12.4, intend to make the first floor accessible to accommodate employees
- initial discussion was about installing a lift
- spending over 30%
- first floor, work cubicles and toilet rooms will comply; proposing incline lift

WW - *grant for this use only, on the condition that the lift complies and that the decision is registered with the registry of deeds within 60 days; on the condition that plan for the lift submitted within 30 days receipt of the decision*

GL - *second – carries*

15) Incoming: Colonial Hotel, 625 Betty Spring Rd., Gardner (V12-084)

TH - EXHIBIT – variance application
- 3.3.1b jurisdiction
- seeking variance to 25.1, for the corridor door rear, couldn't find the door that they were referencing
- need more information

AB - *continue for more information*

RG - *second – carries*

16) Hearing: Casa B, 253 Washington St., Somerville (V11-139)

DL - called to order at 2:20 p.m., scheduled for 2 p.m.

Angelina Jockovich, (Owner/Manager) (AJ)

Alberto Cabre, (Chef/Owner) (AC)

DL - both sworn in
- EXHIBIT 1, AAB1-79

DL - AAB26, Notice of Action language outlined
TH - also outlined on AAB1
- required photographs of the priority seating that was labeled as reserved
- hearing was scheduled due to the lack of photographs

TH - Boston Globe review from the Boston Globe, AAB3 & 4, reviewer calls the upstairs floor a glorified hallway, to hold the overflow from the seating below

- variance was granted based on the fact that the basement was the overflow seating
- highlighted in AAB34, letter from Petitioners
- need to see the first floor and the seating procedure for the first

AJ - first floor is entirely accessible, every single seat at the first floor is accessible
 - do take reservation, do tell everyone that basement is overflow use, do maintain one table as open for when persons with disabilities do come in because of the long wait
 - same service at both floors
 - main kitchen is downstairs

DL - AAB15 and 16
 - Photo of the front entrance, from the exterior, in the packet

AC - didn't get CO until 12/20; the picture that was submitted was prior to renovation
 AJ - the picture before is the entry before
 - picture of the finished space, the entire first floor is accessible

DL - accept the 3 photos of the main entrance floor as EXHIBIT 2

AJ - sound system was higher upstairs and the lighting was brighter at first
 AC - this was probably why the "glorified hallway" statement was made

AC - green wall in the basement, but just because of the lack of lighting
 - the front windows open completely in the summertime making the first floor primary space for the restaurant that is preferred

CS - does website state priority seating available?
 AC - first floor seating is all accessible and the seating at the first floor will be held so that the next party seated would be the one needing accessible seating

TH - so if the first floor is booked with a large party
 AJ - seating for 25
 - so if party of 25 comes in then no accessible seating available

DL - could accommodate people with disabilities in the normal flow of things
 AJ - do not have private parties

MB - change the order, that no parties or private functions
 - no separate wine tastings down stairs, but need to be given the option of which floor to reserve at

MB - amend the previous decision of the Board conditions, specifically to reword #3 to state: people reserving private parties and private functions shall be notified of the lack of accessibility at the lower and given the option to reserve at either upstairs or downstairs.

CS - second – carries

MB - amend the previous decision of the board conditions, specifically to reword #3 to also state that no special events (i.e. wine tastings) that do not require a reservation are to be held solely at the lower level of the restaurant

CS - second – carries

MB - rescind the condition the first portion of condition #4 from the previous decision, based on the submittal of the photographs that show that all seating is accessible

WW - second – carries

TH - signage does not include the international symbol of accessibility over the doorway, required in 41.1.3

AJ - it's the only door into or out of the building

DL - only door in and out, would be no question in an emergency
- but with the accessible egress signage installed, there is no question

CS - illuminated accessible emergency egress signage within 30 days receipt of the decision of the Board

GL - second – carries

17) Hearing: Shearer Building, 136 Warren Street, Roxbury (V11-204)

DL - called to order at 3:20 p.m.
- introduce the Board

Horace Shearer, Owner (HS)

Carol Shearer-Best, Daughter of Owner (CB)

Desamou Qaabid, Consultant (DQ)

DL - all those offering testimony sworn in
- EXHIBIT 1 – AAB1-21

HS - would have DQ deal with the overall layout of the building

DQ - the building has been used commercially for 40 years
- when wanted to change to commercial spaces, and when filed the plans with the City, recommended to come before the Board
- not seeking federal funds, just want to change the occupancy

DL - the building today has commercial use in it; but the last long form permit on file with the City listed the apartment use is still listed; even though long standing use as commercial space, last legal use is apartments

DQ - the marquis indicated that there were more tenants than the building was set up for; were already in the process of changing the occupancy; were told that two of the units had to be considered as storage use only;
- building had been used, ever since the building was purchased by HS, as commercial space, but not listed as such with the City of Boston

DL - any plans for construction or is this just about the number of units?

DQ - just instructed to enclose the sinks at the basement unit and 4th floor unit

MB - tenants listed are the tenants that are already there?

DQ - yes, they have been there for a number of years

WW - when the building was purchased, was it already a commercial building?
HS - there was one apartment being rented; rented the first floor of the building for 34 years
- the use of the basement space by friend to collect urine for substance testing
CSB - originally an undertakers building, then a doctor's office, then rented the first floor for 34 years,
and then as the residential tenants left, the business expanded to those other floors
HS - bought the building in the 1970's

WW - sounds like the change of use was prior to the regulations regarding "change of use"
- if the change of use occurred decades ago, can't hold to the current regulations, especially since no
work is being performed

DL - copy of assessor's bill is back to 1984 listing it as commercial since then
- that copy is accepted as EXHIBIT 2

CS - *no variance is required, based on the testimony and the submittal of the assessors history*
WW - *second – carries*

18) Incoming: City Hall, 718 Main St., Fitchburg (V12-085)

TH - EXHIBIT – variance application
- construction of a new toilet room
- spending \$25,357.00, work performed
- plan to build a new unisex toilet room at the first floor, seeking relief to section 30.2, regarding the
location
- just outside of the public meeting room
- 5 stories, with accessible toilet room in the basement, only other public toilet rooms are at the 3rd floor
that are not accessible, installing the first floor accessible toilet room

CS - *grant as proposed*
MB - *second – carries*

19) Incoming: Proposed Law Office, 639 Concord St., Framingham (V12-093)

TH - EXHIBIT – variance application
- small residential building purchased by a law firm
- created a ramped entrance at the rear with the parking
- seeking variance for the lack of access to the main entrance at the front of the building
- new accessible toilet room at the first floor

AB - *grant, as proposed*
CS - *second - carries*

20) Incoming: Seligman House, Amherst College, 67 Northampton Rd., Amherst (V12-099)

TH - EXHIBIT – variance application
- renovation of existing dormitory building
- spending over 30%
- proposing first floor access with complete access and common use spaces
- seeking relief for vertical access in the building and the lack of access at the common use spaces at the
upper floors

MB - deny, not proven that excessive without benefit to persons with disabilities
AB - second – carries with CS not present

21) Discussion: Saugus Learning and Discovery, 286 Main St., Saugus (V07-014)

TH - continued to grant time extensions since the original case was heard
- in April of 2011, gave them until May 1, 2012 to provide vertical access
- last order stated that financial documents need to be included

MB - deny extension request
GL - second – carries with CS abstaining

22) Incoming: The Gannet House, Harvard Law School, 1511 Mass. Ave., Cambridge (V12-097)

TH - EXHIBIT – variance application
- 6 requests

CS - schedule a hearing
AB - second - carries

23) Incoming Discussion: Needham Day Spa, 33-35 Marsh Rd., Needham (V12-020)

TH - originally presented on February 6th
- being renovated for nail salon on first and second floor
- spending over 30%
- originally sought a variance to 28.1, due to the elevator costs, but the application did not address all of the required items
- no handrails, second floor bathrooms, ramp proposed did not show handrails, and egress was not addressed
- met with the attorney and the owner and they submitted additional information
- now seeking additional variance requests
- first request is for 25.1 for the main entrance, raising the porch and creating two areas of rescue assistance and now providing handrails at the stairs; there is an accessible entrance

AB - grant, as proposed for 25.1
CS - second – carries

TH - same services at both floors, seeking variance for the lack of vertical access to the second floor

CS - grant for the lack of vertical access, on the condition that the services are the same, and for this use and owner only

MB - second – carries

TH - the last variance is for the two toilet rooms at the second floor

MB - grant, based on the lack of benefit vs. cost
CS - second – carries

TH - last variance for the lack of compliant handrails at one side of the stairs

CS - grant on the condition compliant handrails at one side of the stairs
WW - second – carries with MB opposed

24) Incoming: Dance Studio, 507 Furnace Brook Pkwy, Quincy (V12-091)

- TH - EXHIBIT – variance application
- renovation of old gas station
- two small additions to the left and right
- spending over 30%
- seeking 5 variances
- first variance is for Studio 1, which has two entrances, one is served by a 1:10 ramp and the other is served by 2 steps
- 80% complete

AB - *grant as proposed*

GL - *second – motion fails with only AB in favor, with WW, MB opposed and RG and CS abstaining*

WW - what are the other variances?

- TH - vertical access to the second floor and the lack of compliance at the women's room dimensions
- winder stairs that serve the second floor (only 380 Sq. Ft)
- other variance for ramp slope

WW - *grant the variance for 29.2.3, regarding the change in level to Studio 1*

RG - *second – AB, WW, and RG in favor, MB opposed, GL and CS abstained, motion carries*

WW - *grant the slope for the ramp to Studio 1*

AB - *second – AB, RG, WW, and GL in favor, MB opposed, CS abstains, motion carries*

WW - *grant the lack of vertical access to the second floor*

AB - *second – carries with CS abstaining*

WW - *grant the dimensions for the accessible women's toilet room*

AB - *second – carries with CS abstaining*

WW - *grant the use of the winder stairs, on the condition that compliant handrails provided*

GL - *second – carries with CS abstaining*

*** NO MORE GL ***

25) Incoming: El Mariachi Mexican Restaurant, 44-47 Taunton Green, Taunton (V12-098)

- TH - EXHIBIT – variance application
- Independence Associates opposes the variances requested
- 4 story building, second floor is additional seating and a bar area
- caught without permits, stop work order
- seeking relief for the lack of vertical access and then change in level at the second floor
- bathrooms at the second floor that are not accessible

MB - *deny all variances requested*

CS - *second - carries*

26) Incoming: Fuller Craft Museum, 455 Oak St., Brockton (V12-096)

TH - replacement of existing lift in exterior shaft, asking for a variance for the platform size, but don't list platform size proposed

- front entrance design, propose lift with forward entry side exit lift, with not usable platform

MB - deny use of lift for the front entrance because the design will not work

CS - second – carries

MB - continue for more information submitted within 30 days receipt of the notice of action for more information regarding platform size

CS - second – carries

27) Incoming: Family Dog, 286-288 Commercial St., Provincetown (V12-090)

TH - EXHIBIT – variance application

- second floor change in use

- seeking time variance to create vertical access to the second floor

- will install an elevator by 4/3/13

- the business will occupy the first and second floors of the building

- portion of the first floor that is the dog space, and then all of the second floor

-

CS - grant time variance to allow until 4/3/13

MB - second – on the condition that by October 1, 2013 submit copy of receipt of purchase or deposit check for the elevator work

CS - accept amendment

- motion carries

28) Incoming: Buckley Insurance, 27 Main St., Marlborough (V12-086)

TH - EXHIBIT – variance application

- residential structure, spending over 30%

- first floor converted to commercial office space

- seeking relief for the lack of access to the front entrance to the building, proposing rear accessible ramp, with the least possible slope, 1:12 max

CS - grant as proposed

MB - second – carries

29) Discussion: Beverly Golf and Tennis Club, 134 McKay St., Beverly (C11-080 and V11-231)

TH - cited in a complaint in July of 2011

- variance was submitted in November of 2011

- granted them time to correct the violations, with status reports to be submitted, granted until 12/2012 on the condition that status reports submitted starting 4/1/2012

- proposing two lifts, side-by-side

- one goes from first floor to basement, second lift goes to second floor and stage at second floor

- will be done by 12/31/12

CS - accept the plan and the 12/31/12 date for compliance

RG - second - carries

30) Discussion: Camp Rotary, 372 Ipswich Rd., Boxford (V11-072)

TH - plan for compliant roll-in shower at the infirmary building

CS - accept the submitted plan

MB - second - carries

31) Incoming: Galley Restaurant at Cliff Side, 54 Jefferson Ave., Nantucket (V12-094)

TH - EXHIBIT – variance application

- restaurant with full accessibility at the main restaurant, as well as at the porch and at the beach seating

- second floor employees only

- Building Inspector issued a stop work order for the tables on the sand to not be used because they are not accessible

- proposing to make half of the tables accessible on the beach via the installation of Mobi Mat

WW - grant as proposed

MB - second - carries

32) Advisory Opinion: Proposed Restoration Hardware Store and a restaurant, 234 Berkley St., Boston

TH - first floor served by 4 different entrances, all served by stairs

- submitting variance for Berkley Street entrance

- advisory for the Newbury Street and Boylston Street entrances

- problem with ramps on the Boylston Street side, would like to create two covered pavilions, for valet service and an exterior lift at both Boylston Street and Newbury Street entrance sides

- is a variance needed, or can this be done by right, since the installation of a ramp is not feasible

MB - ramp is feasible, because it can be done

MB - variance required for this design

AB - second - carries

34) Incoming Discussion: Rainbow Store, 15 Winter Street, Boston (V12-025)

TH - seeking variance for the use of incline wheelchair lift that was installed in 2009

- BBRS has approved a variance for the width of the exit stair when the platform lift is in use

- recently the use of the lift was questioned

WW - grant the use of the incline wheelchair lift

CS - second – carries

35) Discussion: Minutes and Decisions from 4/9/12

KS - minutes and decisions from 4/9/12

CS - accept decisions and minutes from April 9, 2012

AB - second – carries with WW not present

- End of Meeting -